questions of witnesses, she took testimony from witnesses, she made and responded to motions and objections and she prepared post-hearing briefs (A-11-A-18, A-45-A-46). *See Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ.*, 86 F. Supp. 2d 354, 355 (S.D.N.Y. 2000), *aff'd*, 297 F.3d 195 (2002).[2]

It is also undisputed that no contemporaneous time records were produced to substantiate Ms. Arons' claim for "expert" fees. *See Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ.*, No. 99 Civ. 9294, 2003 WL 21694398, at * 8 (S.D.N.Y. July 22, 2003), *aff'd*, 402 F.3d 332, 339 (2d Cir. 2005). Neither the district court's reduced award to Ms. Arons, see *Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ.*, No. 99 Civ. 9294, 2003 WL 21694398, at * 8 (S.D.N.Y. July 22, 2003), *aff'd*, 402 F.3d 332, 339 (2d Cir. 2005), nor the Second Circuit's prospective holding that a plaintiff's application for fees for experts or consultants who perform services in IDEA actions must be accompanied by contemporaneous time records, *see Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ.*, 402 F.3d 332, 339 (2d Cir. 2005), corrects the inequity of an award of "expert" fees to an unlicensed individual performing legal services disguised as expert services. *See Arons v. New Jersey State Bd. of Educ.*, No. 85 Civ. 209, 1987 WL 10808, at *4 (D.N.J. May 12, 1987), *aff'd*, 842 F.2d 58, 62-63 (3d Cir.), *cert. denied*, 488 U.S. 942 (1988). To permit recovery of lay legal services

2. Two of the witnesses that Ms. Arons' elicited testimony from at the impartial hearing were experts hired by the parents: a neuropsychologist and a speech/language pathologist. *See Application of the Board of Educ. of the Arlington Cent. Sch. Dist.*, Appeal No. 99-65 (N.Y. State Review Officer Dec. 14, 1999). Interestingly, in the parents' application to the district court to recover expert fees under the IDEA based on their success at the hearing, no evaluation or appearance charges for either of the parents' actual experts were included (A-11-A-18,A-45-A-46). *See Murphy v. Arlington Cent. Sch. Dist. Bd. of Educ.*, 86 F. Supp. 2d 354, 355 (S.D.N.Y. 2000), *aff'd*, 297 F.3d 195 (2002)).

cloaked as "expert" services opens parents of disabled students to frivolous lawsuits and potential financial ruin. *See Arons v. State of New York*, No. 04 Civ. 0004, 2004 WL 1124669, at *1-3 (S.D.N.Y. May 20, 2004) (dismissing Ms. Arons' federal lawsuits against parents of disabled students).

CONCLUSION

The Court should invoke its power to review this issue. To avoid certain confusion, not only in the Second Circuit, but throughout the Circuits, the Court must clarify for civil rights litigants in IDEA actions whether or not the Court intended for its opinion in *Casey* to elevate some of the IDEA's legislative history over the explicit wording of the statute and permit recovery of expert fees in IDEA actions.

Respectfully submitted,

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